MYSORE ACT No. VII OF 1943.

THE MYSORE WAR RISKS (GOODS) INSURANCE ACT, 1943.

(AS AMENDED BY ACTS XXIV OF 1943 AND XXX OF 1946)

(Received the assent of His Highness the Maharaja on the seventh day of January 1943.)

An Act to make certain Provisions for the Insurance of Goods in [1][the State of Mysore except Bellary District] against Damage by Enemy Action.

WHEREAS it is expedient to make certain provisions for the insurance of goods in [1][the State of Mysore except Bellary District] against damage by enemy action; It is hereby enacted as follows:—

Short title, extent and commencement.

1. (i) This Act may be called the Mysore War Risks (Goods) Insurance Act, 1943.

(ii) It extends to the whole of [1][the State of Mysore except Bellary District].

(iii) It shall come into force at once.

2. In this Act unless there is anything repugnant in the subject or context,—

(*a*) "agricultural products" means products of agriculture, horticulture or sylviculture and includes growing crops, plants and trees;

(*b*) "goods" means any materials, commodities or articles and includes materials or articles used in or for the construction of ships up to the time at which a ship after construction is launched;

(*c*) "war risks" means such risks arising from—

(i) action taken by an enemy or action taken in combating an enemy or in repelling an imagined attack by an enemy,

(ii) measures taken under proper authority to avoid the spreading of, or otherwise to mitigate, the consequences of damage occurring (whether acci-

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1. See the Mysore Adaptation of Laws Order, 1958.

dentally or not) as the direct result of any such action as aforesaid,

(iii) precautionary or preparatory measures taken under the proper authority with a view to preventing or hindering the carrying out of any attack by an enemy, being measures involving a substantial degree of risk to property,

(iv) precautionary or preparatory measures involving the doing of work on land and taken under proper authority in any way in anticipation of enemy action, being measures involving a substantial degree of risk to property,

(v) precautionary or preparatory measures taken under proper authority with a view to denying facilities to the enemy, being measures involving a substantial degree of damage to, or diminution of the value of property,

as may be prescribed ;

(*d*) " live-stock " includes animals of any description ;

(*e*) " prescribed " means prescribed by rules made under this Act ;

(*f*) " seller of goods " includes a seller of goods acting as an agent, and, in relation to any person carrying on the business of selling goods, as an agent, any reference in this Act to goods produced by him or to goods not produced by him shall be construed as including a reference to goods produced, or as the case may be, not produced by his principal.

Goods insurable under this Act.

3. (1) Subject to the provisions of this section—

(*a*) the following goods shall, in relation to any person carrying on business in [1][the State of Mysore except Bellary District] as a seller of goods of any description produced by him, be deemed to be goods insurable under this Act, that is to say, all goods situated in [1][the State of Mysore except Bellary District] being either—

(i) goods of that description, or

(ii) goods used as material from which goods of that description are produced or as ingredients or component parts of goods of that description ; and

(*b*) the following goods shall, in relation to any person carrying on business in [1][the State of Mysore except

1. See the Mysore Adaptation of Laws Order, 1953.

Bellary District] as a seller of goods of any description not produced by him, be deemed to be goods insurable under this Act, that is to say, all goods of that description being goods situated in [1][the State of Mysore except Bellary District].

(2) In relation to a person carrying on in [1][the State of Mysore except Bellary District] the business of selling agricultural products produced by him, all agricultural products and live-stock for the time being situated in [1][the State of Mysore except Bellary District] shall, subject to the following provisions of this section, be deemed to be goods insurable under this Act :

Provided that the Government may, by general or special order, direct that the provisions of section 6 shall not operate so as to require a person to be insured in respect of any goods which, in relation to that person would not, apart from the provisions of this sub-section, be goods insurable under this Act.

(3) Things which, in relation to a person carrying on any business as a seller of goods, are at any time goods insurable under this Act shall not cease to be goods so insurable by reason only that they are subsequently placed in or affixed to land under a contract of sale entered into by that person in course of that business.

(4) The Government may, by notification in the official Gazette, direct that goods of any description specified in the notification shall, notwithstanding anything contained in this section, be deemed not to be goods insurable under this Act.

Ownership.

4. (1) Save in so far as is otherwise expressly provided in this Act, any goods shall, subject to the provisions of this section, be deemed for the purposes of this Act to be owned—

(*a*) if the property in the goods is for the time being vested in a person in relation to whom they are insurable under this Act, by that person ;

(*b*) if the property in the goods is not so vested, by any person in relation to whom the goods are insurable under this Act and who is for the time being entitled, either unconditionally, or condi-

1. See the Mysore Adaptation of Laws Order, 1952.

tionally to have the property in the goods vested in him :

Provided that where—

(i) any goods would, under the foregoing provisions of this sub-section, be deemed to be owned by a person in whom the property therein is vested otherwise than in the course of a business carried on by him in [1][the State of Mysore except Bellary District] or who is entitled to have the property therein vested in him otherwise than in the course of such a business, and

(ii) any person carrying on business in [1][the State of Mysore except Bellary District] is for the time being entitled to sell the goods as agent,

the goods shall be deemed to be owned by the last mentioned person.

(2) Where in the course of any business, a ship is being, or has been constructed under contract, and the ship or any part thereof or any goods appropriated for the construction thereof—

(*a*) would, apart from the provisions of this sub-section, have been deemed for the purposes of this Act to be owned at any time by the person from time to time carrying on the business, or

(*b*) have at any time been accepted, in pursuance of a contract made with him by the person from time to time carrying on the business,

then, notwithstanding that they would not, apart from the said provisions, be deemed for the said purposes to be owned by the person from time to time carrying on the business, the ship and any part thereof and any goods so appropriated as aforesaid shall, subject to the provisions of sub-section (3), be deemed, in a case to which clause (*a*) applies, to continue to be owned by the person from time to time carrying on the business until the acceptance of the ship, in pursuance of the contract in question, by the person for whom it is being, or has been, constructed and in a case to which clause (*b*) applies, to be owned by the person from time to time carrying on the business at all times between the acceptance referred to in the said

1. See the Mysore Adaptation of Laws Order, 1959.

clause (b) and the acceptance of the ship as aforsaid by the person for whom it is being, or has been, constructed.

(3) The provisions of sub-section (2) shall apply in relation to the construction under contract in the course of a business, of part of a ship, not being part of a ship which is being, or has been, constructed by the person from time to time carrying on the business, as they apply in relation to the construction of a ship—

(*a*) with the substitution for references to a ship of references to part of a ship ;

(*b*) where the contract for the part of the ship is with the person for whom the ship is being constructed, with the substitution for references to the acceptance of the ship under the contract in question of references to the acceptance of the ship under the contract for the construction thereof ;

(*c*) where the contract for the part of the ship is with any other person, with the substitution for references to the acceptance of the ship under the contract in question of references to the acceptance of the part of the ship under the contract for the construction of the part by the person for whom it is being, or has been, constructed.

(4) Where the person from time to time carrying on a business receives any money, under a policy issued in pursuance of the War Risks (Goods) Insurance Scheme of the Government of India, in respect of the loss of or damage to a ship, part of a ship or goods which are deemed to be owned by him by virtue of sub-section (2) or sub-section (3), the money shall be held by him on trust for the person who, apart from the provisions of these sub-sections, would be deemed for the purposes of this Act to be the owner of the ship, part or goods, subject however, to any lien or charge which would otherwise be enforceable against the ship, part or goods, and subject also to the right to retain out of the money the amount of any expenses reasonably incurred by the first mentioned person in making good any part of the loss or damage which he is liable to make good.

[1] [5 6 * * *]

[2][6A. (i) Without prejudice to the provisions of sub-section (2) of section 6 where any person has failed to

1. Sections 5 and 6 omitted by Act XXX of 1946.
2. Inserted by Act XXIV of 1943.

insure as, or to the full amount, required by this Act and has thereby evaded the payment by way of premium of any money which he would have had to pay but for such failure, an officer authorised in this behalf by the Government may determine the amount, payment of which has been so evaded. The amount so determined shall be payable by such person and shall be recoverable from him as an arrear of land revenue and shall be the first charge on the property in respect of which the default was made.

(ii) The person against whom a determination is made under sub-section (i) may, within a prescribed period, appeal against such determination to the Government or an authority appointed by the Government whose decision shall be final.]

Power to obtain information.

7. (1) Any person authorised in this behalf by the Government or the Government of India may, for the purpose of ascertaining whether or not [1][the requirements of this Act have been complied with]

(*a*) require any person carrying on in [2][the State of Mysore except Bellary District] the business of fire insurance or of a seller of goods to submit to him such accounts, books or other documents or to furnish to him such information as he may reasonably think necessary, or

(*b*) at any reasonable time enter any premises occupied by any person carrying on in [2][the State of Mysore except Bellary District] any such business and inspect the premises and require any person found therein who is for the time being in charge thereof to produce to him and allow him to examine such accounts, books or other documents as may relate to the business carried on in the premises or to furnish to him such information as he may reasonably think necessary.

(2) Whoever wilfully obstructs any person in the exercise of his powers under this section or fails without reasonable excuse to comply with a request made thereunder shall, in respect of each occasion on which any such obstruction or failure takes place, be punishable with fine which may extend to five hundred rupees.

(3) Whoever in purporting to comply with his obligations under this section, knowingly or recklessly makes a statement false in a material particular shall be

1. Substituted by Act XXIV of 1943.
2. See the Mysore Adaptation of Laws Order, 1953.

punishable with fine which may extend to one thousand rupees.

Limitations on prosecutions.

8. No prosecution for any offence punishable under this Act shall be instituted against any person except by or with the consent of the Government or an authority authorised in this behalf by the Government.

Composition of offences.

9. Any offence punishable under sub-section (2) of section 6 may, either before or after the institution of the prosecution, be compounded by the Government or the Government of India or by any authority authorised in this behalf by the Government or the Government of India on payment for credit to the War Risks (Goods) Insurance Fund established by the Government of India of such sum as the Government or the Government of India or such authority, as the case may be, thinks fit.

Bar of legal proceedings.

10. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

Power to make rules.

11. (1) The Government may, by notification in the official Gazette make rules to carry into effect the provisions of this Act.

(2) Subject to any other rules or any modification that may be made in exercise of the powers under sub-section (1) of this section, the rules for the time being in force under the Government of India's War Risks (Goods) Insurance Ordinance, 1940, shall *mutatis mutandis* be deemed to be the rules for the purposes of this Act in [1][the State of Mysore except Bellary District], and further all persons authorised by the Government of India under that Government's War Risks (Goods) Insurance Ordinance, 1940, and the rules framed thereunder for any of the purposes of that ordinance, shall be deemed to be authorised under this Act for corresponding purposes.

Repeal and Savings.

12. The Mysore War Risks (Goods) Insurance (Emergency) Act, 1942 (XXXV of 1942), is hereby repealed. But any rules made, anything done and any action taken in exercise of any power conferred by or under the said Emergency Act shall be deemed to have been made, done or taken, in exercise of powers conferred by or under this Act, as if this Act has commenced on the 8th day of August 1942.

1. See the Mysore Adaptation of Laws Order, 1953.